IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10644 of 2000

in

SPECIAL CIVIL APPLICATIONNo 4578 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL
and
Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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N. R. I. TOWERS

Versus

AHMEDABAD URBAN DEVELOPMENT AUTHORITY

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Appearance:

MRS VASAVDATTA BHATT for Petitioners
MR DN PATEL for Respondent No. 1
NANAVATI & NANAVATI for Respondent No. 2
MR HS MULIA for Respondent No. 5
MR PR NANAVATI for Respondent No. 4

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CORAM : MR.JUSTICE B.C.PATEL

and

MR.JUSTICE C.K.BUCH

Date of decision: 17/10/2000

ORAL JUDGEMENT

(Per : MR.JUSTICE B.C.PATEL)

#. Rule. Mr. D.N. Patel, M/s. Nanavati & Nanavati, Mr. H.S.Mulia and Mr. P.R. Nanavati, learned counsel waive service for respondent nos. 1, 2, 5 and 4 respectively.

#. On behalf of Balaji Construction, respondent no. 5 Shri Dhirubhai Devrajbhai Patel, resident of Sabari Apartment, Vastrapur, Ahmedabad is present. On instructions, learned advocate Mr. H.S. Mulia stated that Shri Dhirubhai Devrajbhai Patel will provide fire safety system as required by the Ahmedabad Municipal Corporation. He shall open separate bank account and shall deposit a sum of Rs. 2.00 lacs by the end of this week and a further sum of Rs. 8.00 lacs shall be deposited within a period of 5 weeks hereafter. The amount so deposited in the bank in a separate account shall be utilized for the purpose of making payment to the supplier who is going to install the fire safety system. The fire safety system shall be provided within a period of 8 weeks.

#. One Mr. Yagnesh D. Vyas has filed an affidavit. In para 4 of the said affidavit, it is pointed out as under.

"I say that the Respondent No. 2, Balaji Construction had engaged my services to design the N.R.I. Towers situated at Bodakdev on Survey No. 25/1, Final lPlot No. 131. As per the instructions and assistance rendered by the builders M/s. Balaji Construction I designed the aforesaid building with facility of providing Fire Hydrant system as per the General Development Control Regulations published by Ahmedabad Urban Development Authority. Thereafter, I say that after the aforesaid design of the building, plans were submitted to the Structural Consultant for their structural design and the same were submitted through the Consulting Engineer to the Fire Department of the Ahmedabad Municipal Corporation. I submit that the Fire Department of the Ahmedabad Municipal Corporation had approved the design of the Fire Hydrant System and consequently the plans were submitted to AUDA, the Respondent No. 1 herein

and the Respondent No. 1 had issued Raja Chitthi bearing permission No. 11231/1878 for the commencement of the construction work. I further say and submit that Balaji Constructions in their brochure published for N.R.I., had given written assurance to provide Fire Hydrant System for which I had made provision in the design."

#. Thus, it is very clear that the Architect had made necessary provision in the plan. It was for the builder to provide fire safety system, and having failed, he has put the occupiers in difficulties. Without obtaining building use permission, he has permitted the occupiers to occupy the building. As a matter of fact, when the permission for erection was granted, it was within his knowledge that this system is required to be provided. That is very clear from the affidavit of the Architect as well as the commencement certificate granted as per plan. As the builders failed in providing the fire fighting system, the Ahmedabad Municipal Corporation published advertisement thrice. Yet there was no response from the builder. It was the duty of the builder to provide fire safety system as per regulation. However, as he has stated that he shall see that the fire safety system will be provided, we allow this application with costs. Special costs of Rs. 2,000/- (Rupees Two Thousand) shall be paid to the Architect by the builder within a period of 5 days hereafter. Undertaking on the aforesaid terms shall be filed by Shri Dhirubhai Devrajbhai Patel and Shri Vijaybhai Kela, by the end of this week. Rule is made absolute accordingly. Liberty to apply in case of difficulty.

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